VISTO V. MICROSOFT PATENT RULE 4-5 (d) CLAIM CHART

DISPUTED TERMS FROM VISTO'S PATENTS	VISTO'S PROPOSED CONSTRUCTION	MICROSOFT'S PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
"initiating steps ___ and ___ " ('192 patent claims 1, 2 and 22)	*No construction necessary, other than the term "initiating":* To cause or facilitate the beginning of.	issuing a synchronization request	
"initiating the general synchronization module and the synchronization agent" ('192 patent claim 11)	*No construction necessary, other than the term initiating:* To cause or facilitate the beginning of.	issuing a synchronization request	
"independently modifiable emails" ('679 patent claims 1, 3 and 11)	Emails that are capable of being modified independent of each other. The emails do not have to be in the same format.	copies of an email that are capable of being modified independent of each other. The copies do not have to be in the same format.	
"independently modifiable" ('192 patent claims 1, 2 11 and 22; '679 patent claims 1, 3 and 11)	*No construction required separate from the proposed constructions of "independently modifiable copy" and "independently modifiable email." The meaning of "independently modifiable" is apparent to one of ordinary skill in the art.* *The parties have already*	[a copy/email] that the user can modify without modifying another [copy/email]	

DISPUTED TERMS FROM VISTO'S PATENTS	VISTO'S PROPOSED CONSTRUCTION	MICROSOFT'S PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
	agreed the term "independently modifiable copy" should be construed to mean: A copy of a workspace element capable of being modified independent of the workspace element. The copy of the workspace element does not have to be in the same format as the workspace element		
"server" ('192 patent claim 2; '221 patent claim 8; '679 patent claims 1, 3 and 11)	A computer that provides services to another computer.	a "server" is a computer or program that responds to commands from a client a "client" is a computer that accesses shared network resources provided by the server	
"Internet" ('192 patent claim 22; '679 patent claim 1, 3, 11)	*No construction necessary, but Visto does not object to Microsoft's proposed definition with the following modification:* A network that connects other networks, such as corporate, university, and government networks.	the worldwide, publicly accessible network that connects other networks, such as corporate, university, and government networks	

AGREED TERMS FOR CLAIM CONSTRUCTION PURPOSES	VISTO'S PROPOSED CONSTRUCTION	MICROSOFT'S PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
"independently modifiable copy" ('192 patent claims 1, 2, 11, 22)	AGREED	AGREED	a copy of a workspace element capable of being modified independent of the workspace element. The copy of the workspace element does not have to be in the same format as the workspace element
"workspace element" ('192 patent claims 1, 2, 11, 22)	AGREED	AGREED	a subset of workspace data such as an email, file, bookmark, calendar, or application program which may include version information
"global server" ('192 patent claim 2; '221 patent claim 8; '679 patent claims 1, 3, 11)	AGREED	AGREED	a server accessible from remote locations which stores independently modifiable copies of selected portions of workspace data
"store" ('192 patent claims 1, 2, 11, 22)	AGREED	AGREED	a storage location for data that may reside on any type of memory device
"synchronization agent" ('192 patent claim 11)	AGREED	AGREED	software routines or code that send at least a portion of second version information to a general synchronization module for purposes of synchronization
"version information" ('192 patent claims 1, 2, 11, 22)	AGREED	AGREED	information that can be used to determine the version of a workspace element

17

AGREED TERMS FOR CLAIM CONSTRUCTION PURPOSES	VISTO'S PROPOSED CONSTRUCTION	MICROSOFT'S PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
"preferred version" ('192 patent claims 1, 2, 11, 22)	AGREED	AGREED	a version of a workspace element that is generated or selected from one or more versions
"synchronization-start module" ('192 patent claim 11; '679 patent claims 1, 3, 11)	AGREED	AGREED	software routines or code which initiate the synchronization process
"HTTP port and SSL port" ('192 patent claims 1, 11)	AGREED	AGREED	any port that is used to transfer information or communicate using Hyper Text Transfer Protocol (HTTP) and any port that is used to transfer information or communicate using Secure Sockets Layer (SSL) protocol"
"smart phone" ('192 patent claims 1, 11, 22; '679 patent claims 1, 3, 11)	AGREED	AGREED	a telephone device that integrates computing capabilities and telephone capabilities
"differences" ('221 patent claim 8)	AGREED	AGREED	one or more distinctions between information or values contained in sets of data
"device" ('221 patent claim 8)	AGREED	AGREED	an electronic device on which workspace data is stored

18

AGREED TERMS FOR CLAIM CONSTRUCTION PURPOSES	VISTO'S PROPOSED CONSTRUCTION	MICROSOFT'S PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
"workspace data" ('221 patent claim 8)	AGREED	AGREED	data, including corresponding version information, which may include email data, file data, calendar data, user data, etc. Workspace data may also include other types of data such as application programs
"translator" ('679 patent claims 1, 3, 11)	AGREED	AGREED	software routines or code that convert information or data in one format to information or data in a second format
"means for storing the preferred version" ('192 patent claim 11)	AGREED	AGREED	*corresponding structure:* the general synchronization module 425.
"means for generating a preferred version" ('192 patent claim 11)	AGREED	AGREED	the corresponding structure for this limitation is the general synchronization module 425
"means for storing first [second] workspace data on a first [second] device" ('221 patent claim 8)	AGREED	AGREED	*corresponding structure:* the physical memory structure on the device. This includes the data storage devices 250, 350, and 720
"means for determining differences between the first workspace data and the second workspace data" ('221 patent claim 8)	AGREED	AGREED	*corresponding structure:* general synchronization modules 410 and 835 and the content-based synchronization module 830

AGREED TERMS FOR CLAIM CONSTRUCTION PURPOSES	VISTO'S PROPOSED CONSTRUCTION	MICROSOFT'S PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
"means for storing the differences at a global server" ('221 patent claim 8)	AGREED	AGREED	*corresponding structure:* general synchronization modules 410 and 825 and the content-based synchronization module 830 are corresponding structure. Data storage device 350 on the global server is also necessary structure
"means for sending the differences from the global server to the second device" ('221 patent claim 8)	AGREED	AGREED	*corresponding structure:* general synchronization modules 410 and 825, the content-based synchronization module 830, and the communications module 805
"data record" ('691 patent claim 1)	AGREED	AGREED	record having a plurality of information fields
"filing identifier" ('691 patent claim 1)	AGREED	AGREED	information that identifies the location used by the computer system for filing the data record in a sorted list
"proxy address" ('526 patent claims 1, 9)	AGREED	AGREED	email address associated with a user account name
"foreign email system" ('526 patent claim 9)	AGREED	AGREED	email source operating under a different protocol
"load" ('655 patent claims 1, 27)	AGREED	AGREED	placing in memory for execution

20

AGREED TERMS FOR CLAIM CONSTRUCTION PURPOSES	VISTO'S PROPOSED CONSTRUCTION	MICROSOFT'S PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
"method" ('655 patent claim 2)	AGREED	AGREED	procedure for carrying out an action using object-oriented programming
"synchronization event" ('655 patent claims 1, 2, 27)	AGREED	AGREED	event that is used to determine whether synchronization should occur
"object store" ('369 patent claims 4, 5, 9, 10)	AGREED	AGREED	storage location for objects
"port is an HTTPS (SSL)" ('679 patent claim 3)	AGREED	AGREED	any port that is used to transfer information or communicate using the Secure Sockets Layer (SSL) version of the Hyper Text Transfer Protocol (HTTP)

21

APPENDIX A - LISTING OF DISPUTED CLAIMS

VISTO'S PATENT CLAIMS

A.   U.S. PATENT NO. 6,085,192

Claim 1

1.   A computer-based method comprising the steps of:

(a) establishing a communications channel through a firewall using an HTTP port or an SSL   port;

(b) generating first examination results from first version information which indicates whether a first workspace element stored at a first store within the firewall has been modified;

(c) generating second examination results from second version information which indicates   whether an **independently-modifiable** copy of the first workspace element has been modified, the copy being stored at a second store on a smart phone outside the firewall;

(d) **initiating steps (b) and (c)** from within the firewall through the communications channel   when predetermined criteria have been satisfied;

(e) generating a preferred version from the first workspace element and from the copy based on the first and second examination results; wherein if only one of the first workspace   element and the copy has been modified, then the step of generating includes selecting   the one as the preferred version; and

(f) **storing the preferred version at the first store and at the second store.**

Claim 2:

2.   A computer-based method comprising the steps of:

(a) generating first examination results from first version information which indicates whether a first workspace element stored at a first store within a firewall has been modified;

(b) generating second examination results from second version information which indicates whether an **independently-modifiable** copy of the first workspace element has been modified, the copy being stored at a second store outside the firewall;

(c) **initiating steps (a) and (b)** from within the firewall when predetermined criteria have been satisfied;

22

(d) generating a preferred version from the first workspace element and from the copy based on the first and second examination results; and

(e) **storing the preferred version at the first store and at the second store;**

wherein the second store is on a global **server** outside the firewall and which is protected by a global firewall.

Claim 11 (including independent claim 10):

10.   A system comprising:

a communications channel through a firewall comprising one of an HTTP port and an SSL port;

a general synchronization module for operating within the first firewall and for examining first version information to determine whether a first workspace element at a first store has been modified;

a synchronization agent for operating outside the first firewall and for forwarding to the general synchronization module second version information which indicates whether an **independently modifiable** copy of the first workspace element at a second store on a smart phone has been modified;

a synchronization-start module for operating within the first firewall and for **initiating the general synchronization module and the synchronization agent** when predetermined criteria have been satisfied;

means for generating a preferred version from the first workspace element and from the copy by comparing the first version information and the second version information, wherein if only one of the first workspace element and the copy has been modified, then the means for generating selects the one as the preferred version; and

means for **storing the preferred version at the first store and at the second store.**

Claim 22:

11.   The system of claim 10 further comprising a communications module for communicating through the first firewall, wherein the first firewall is positioned between a trusted network and the **Internet.**

22.   A computer-readable storage medium storing program code for causing a computer-based system to perform the steps of:

(a) generating first examination results from first version information which indicates whether a first workspace element stored at a first store within a firewall positioned between a trusted network and the **Internet** has been modified;

(b) generating second examination results from second version information which indicates whether an **independently-modifiable** copy of the first workspace element has been modified, the copy being stored at a second store on a smart phone outside the firewall;

23

(c) **initiating steps (a) and (b)** from within the firewall through an **Internet** communications channel when predetermined criteria have been satisfied;

(d) generating a preferred version from the first workspace element and from the copy based on the first and second examination results, wherein if only one of the first workspace element and the copy has been modified, then selecting the one as the preferred version; and

(e) **storing the preferred version at the first store and at the second store.**

B.   U.S. PATENT NO. 7,039,679

1.   An e-mail system for providing synchronized communication of **independently modifiable e-mails** over an **Internet** between a local area network (LAN) **server** secured by a LAN firewall with at least one **normally open** LAN **firewall port**, and each of a plurality of smart-phone devices, said system comprising: a global **server** secured by a global **server** firewall having a global **server** firewall port therein; a first **Internet** communication channel coupling said LAN **server** to said global **server** through said open LAN firewall port and said global **server** firewall port; a plurality of second **Internet** communication channels, each coupling said global **server** to a respective one of said smart-phone devices; at least one translator for translating e-mail data of different formats such that e-mails transmitted to said global **server** and said smart-phone devices are of a format or formats which are acceptable thereto; at least one storage device for storing version information indicating differences between **independently modifiable e-mails**; a general synchronization module responsive to a synchronization start command to synchronize different **independently modifiable e-mails**; and a synchronization-start module coupled to said general synchronization module, said synchronization-start module being responsive to an existence of predetermined criteria to produce and send a synchronization start command to said general synchronization module.

3.   A system, according to claim 1, wherein the normally open port is an HTTPS (SSL).

11.   A system, according to claim 1, wherein said translator is located at one or more of said plurality of said smart-phone devices.

C.   U.S. PATENT NO. 6,708,221

8.   A system for synchronizing workspace data, comprising: means for storing first workspace data on a first device; means for storing second workspace data on a second device; means for determining differences between the first workspace data and the second workspace data; means for storing the differences at a global **server**; and means for sending the differences from the global **server** to the second device.

24